

# **EXHIBIT C**

UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF NEVADA

PARNELL COLVIN,

Plaintiff,

vs.

M.J. DEAN CONSTRUCTION,  
INC.

Defendant.

CASE NO. 2:14-CV-00761-JCM-PAL

VIDEORECORDED DEPOSITION OF PARNELL COLVIN

Las Vegas, Nevada

July 15, 2021  
10:00 a.m. (PST)

REPORTED BY:  
MICHAEL A. BOULEY, RDR  
NVCCR #960



1 Q. So while you communicated with John Thomason,  
2 you were still -- you were actually still working for  
3 Clause Construction at that time. Is that right?

4 A. Yes.

5 Q. Did you know Mr. Thomason from before?

6 A. We met. He called me in his office -- we met  
7 prior to me going to that job.

8 Q. When was the first time you met John Thomason?

9 A. Rough guess, I would probably say --

10 Q. Again, I don't want you to guess. But you do  
11 understand between an estimate and a guess. Right?

12 A. Yes.

13 Q. Okay. So can you give me an estimate as to when  
14 you first met John Thomason?

15 A. Probably -- I would say May. May of 2019.

16 Q. Now, I just want to go back for a second to all  
17 of those lawsuits that we talked about. Do you recall  
18 those?

19 A. Yes.

20 Q. Did you ever testify in court for any of those?

21 A. No.

22 Q. So, never testified in court for any of the  
23 eviction cases?

24 A. Yes.

25 Q. You did?



1           **A.    Yes.    Jan.**

2           Q.    When did you first contact Jan?

3           **A.    Late April.**

4           Q.    So, about working at M.J. Dean?

5           **A.    Yes.**

6           Q.    Had you sent Mr. Thomason any text messages  
7 before June 10, 2019?

8           **A.    I don't recall.**

9           Q.    Had you ever talked to John Thomason before June  
10 10, 2019, about working at M.J. Dean?

11          **A.    Yes.**

12          Q.    When was the first time you talked to John  
13 Thomason about working at M.J. Dean?

14          **A.    May.    May of 2019.**

15          Q.    Did John Thomason tell you to apply to work  
16 there?

17          **A.    No.**

18          Q.    What did he tell you?

19          **A.    Give him my name, last four of my social, and he  
20 would set me up for orientation.**

21          Q.    So did Mr. Thomason say -- indicate to you that  
22 you were going to be hired?

23          **A.    Yes.**

24          Q.    When did he tell you that?

25          **A.    When I had my first meeting with him.**



1 Q. Do you remember when that was?

2 A. May. May 2019.

3 Q. Do you have anything in writing between you and  
4 Mr. Thomason regarding the job other than these text  
5 messages?

6 A. No.

7 Q. So did he ever offer you a job in writing in May  
8 2019?

9 A. No.

10 Q. It was just a conversation between the two of  
11 you?

12 A. Yes.

13 Q. So I'm looking at the second text message on the  
14 first page of Exhibit B. It says, Hello, John. This is  
15 Parnell.

16 Do you see that?

17 A. Yes.

18 Q. So that text message, that block there, that's  
19 you. Right?

20 A. The blue one or --

21 Q. No.

22 A. -- the gray?

23 Q. Yeah.

24 A. Yes.

25 Q. The one in gray is you. Right?



1           **A.    It's a dispatch referral from the union hall.**

2           **Q.    For what?**

3           **A.    Employment with M.J. Dean.**

4           **Q.    And it's dated July 23, 2019.    Correct?**

5           **A.    Yes.**

6           **Q.    So were you, in fact -- did you, in fact, go**  
7 **through your union hall to gain employment at M.J. Dean?**

8           **A.    Yes.**

9           **Q.    There's a number at the -- toward the top of the**  
10 **page.    It says Number 6800.    Do you know what that is?**

11          **A.    No.**

12          **Q.    Do you have a union number?**

13          **A.    Yes.**

14          **Q.    Do you know what that number is?**

15          **A.    No.**

16          **Q.    And take a look at the block area about the**  
17 **middle of the page.    It says, Dispatch Class.    It says,**  
18 **Mud cutter.**

19               **Do you see that?**

20          **A.    Yes.**

21          **Q.    Do you know what a mud cutter is?**

22          **A.    Yes.**

23          **Q.    What is that?**

24          **A.    Somebody that cuts concrete.**

25          **Q.    And next to that, looks like either a G or a 6,**



1 Number 12 as part of D.

2 Is the handwriting yours?

3 A. Yes.

4 Q. Let's go to the next page, Bates numbered 13.

5 And the title of that page is Acknowledging Policy and  
6 Safety Manuals.

7 Is the handwriting yours?

8 A. Yes.

9 Q. So on that page you were acknowledging that you  
10 received M.J. Dean's policy and safety manual. Correct?

11 A. Yes.

12 Q. And that was -- so the office policy manual --  
13 just to be clear, you received copies of the office  
14 policy manual and the safety manual. Correct?

15 A. Yes.

16 Q. Let's go to the next page, marked DEF00014 as  
17 part of Exhibit D. And the title of the page is  
18 Anti-harassment/Discrimination Policy Statement.

19 Is the handwriting yours?

20 A. Yes.

21 Q. And on that page, you were acknowledging that  
22 you had been given a copy of M.J. Dean's policy on  
23 harassment and discrimination; that you reviewed the  
24 policy; understood all of the sections of the policy,  
25 including what acts constituted violation of policy, and



1 what the consequences were. Correct?

2 A. Yes.

3 Q. Next page is Bates Number 15, entitled Substance  
4 Abuse Policy. Is the handwriting yours?

5 A. Yes.

6 Q. Next page is 17, entitled Training Session on  
7 MSDS sheets for Hazard Communications.

8 Is the handwriting yours?

9 A. Yes.

10 Q. And, finally, Bates Number 17, entitled  
11 Acknowledging Receipt of Policy and Safety Manual.

12 Is the handwriting at the bottom of the page  
13 yours?

14 A. Yes.

15 Q. And towards the -- well, the second-to-last  
16 paragraph on that page, you were acknowledging that you  
17 understood, as an employee, that you had a duty to comply  
18 with the safety rules of M.J. Dean and assist in  
19 maintaining the hazard-free environment, report any  
20 accidents or injuries, including breaches of safety, and  
21 to report any unsafe equipment, working conditions,  
22 process or procedure at once to a supervisor. Right?

23 A. Yes.

24 Q. So you understood that you had that obligation  
25 -- those obligations. Correct?





1           **A.    Yes.**

2                   MR. ROSENTHAL: I'd like to have this next  
3 document marked as Defense Exhibit E.

4                   (Exhibit E identified.)

5 BY MR. ROSENTHAL:

6           Q.    Mr. Colvin, I'm showing you what's been marked  
7 as Defense Exhibit E, which is entitled Code of Safe  
8 Practices and Anti-drug and Harassment Policies. Do you  
9 see that?

10           **A.    Yes.**

11           Q.    And is this a copy of -- did you receive a copy  
12 of these Code of Safe Practices and Anti-drug and  
13 Harassment Policies when you began working at M.J. Dean?

14           **A.    Yes.**

15           Q.    I'd like you to take a look at Exhibit E. Bates  
16 Number DEF000176.

17                   And do you see where it's marked, top of the  
18 page, Anti-harrassment and Discrimination Policy?

19           **A.    Yes.**

20           Q.    You received a copy of this Anti-harrassment and  
21 Discrimination Policy. Correct?

22           **A.    Yes.**

23           Q.    And you understood that M.J. Dean would not  
24 tolerate any type of harassment or discrimination to its  
25 employees, applicants, or customers. Correct?



1           **A.    Yes.**

2           Q.    And you also understood that Harassment  
3   included, but was not limited to, slurs, jokes, and other  
4   verbal or physical conduct relating to a person's gender,  
5   ethnicity, race, color, creed, religion, sexual  
6   orientation, national origin, age, disability, marital  
7   status, military status, or any other protected  
8   classification that unreasonably interferes with a  
9   person's work performance or creates an intimidating,  
10   hostile work environment.   Correct?

11          **A.    Yes.**

12          Q.    You didn't have any questions about M.J. Dean's  
13   anti-harassment discrimination policy at any time during  
14   your employment.   Correct?

15          **A.    No.**

16          Q.    Take a look at the next page, Bates number  
17   DEF00177, part of Exhibit E.   Do you see that page?

18          **A.    Yes.**

19          Q.    And at the top of page, it says, Avoiding  
20   Harassment.

21                   Do you see that?

22          **A.    Yes.**

23          Q.    First sentence says, Since the best way to stop  
24   any effective -- offens- -- start over.

25                   Since the best way to stop any offensive conduct



1 is to simply tell the person of your objecting to it,  
2 M.J. Dean Construction encourages you to do so.

3 Do you see that?

4 **A. Yes.**

5 Q. And so you understood that that was an  
6 obligation of yours to let someone know if you sound --  
7 if you found someone's conduct to be offensive. Correct?

8 **A. Yes.**

9 Q. And let's go down to the third heading. It  
10 says, Complaint Procedures and Investigation.

11 Do you see that?

12 **A. Yes.**

13 Q. And so you understood, correct, that if you  
14 believe you were the subject of any harassment or  
15 discrimination or witnessed any harassment or  
16 discrimination in the workplace, you should immediately  
17 inform your supervisor. Correct?

18 **A. Yes.**

19 Q. And you also knew that if your supervisor was  
20 not available, didn't respond to your satisfaction, or  
21 you didn't wish to contact your supervisor, you were to  
22 contact the human resources department. Right?

23 **A. Yes.**

24 Q. And, finally, you knew that if you had any  
25 questions regarding harassment or discrimination, you



1 were encouraged to discuss those questions with your  
2 supervisor or the human resources department. Correct?

3 **A. Yes.**

4 Q. And let's go down two more paragraphs, where it  
5 says, Any employee becomes aware. Do you see that, that  
6 paragraph?

7 **A. Yes.**

8 Q. So, you were aware at that time, throughout your  
9 employment, actually, that -- at M.J. Dean, that any  
10 employee who became aware of possible sexual harassment  
11 or any other illegal discrimination had an obligation to  
12 promptly advise a supervisor, human resources department,  
13 or other appropriate member of management. Correct?

14 **A. Yes.**

15 Q. And, finally, you knew that M.J. Dean would not  
16 tolerate retaliation of any kind. Correct?

17 **A. Yes.**

18 Q. Turn to page DEF00180, please, of Exhibit E.

19 **A. Read that again?**

20 Q. Yeah. DEF00180. Do you see that that page?

21 **A. Yes.**

22 Q. And it's entitled Housekeeping at the top of the  
23 page. Right?

24 **A. Yes.**

25 Q. You were aware, were you not, throughout your



1     **superintendent, Dave McGrandy. And some point later on**  
2     **down the line, Mr. Gutierrez was -- appointed Juan to be**  
3     **the foreman. When I originally got that area, Juan was**  
4     **not my foreman, nor did I report to him.**

5           Q.     Be fair to say that Dave McGrandy was above  
6     Mr. Gutierrez in the chain of command?

7           A.     **As to that area, he was.**

8           Q.     What area was that?

9           A.     **I think he was in area D, I believe.**

10          Q.     Were you assigned to area D throughout your  
11     employment?

12          A.     **No.**

13          Q.     Were you assigned to a particular area at  
14     various points during your employment?

15          A.     **Yes.**

16          Q.     Which areas?

17          A.     **The yard.**

18          Q.     And was it your understanding that your assigned  
19     work area could change day to day, week to week?

20          A.     **Yes.**

21          Q.     And M.J. -- and that M.J. Dean had the right to  
22     assign you to work in a particular area wherever it  
23     wanted?

24          A.     **Yes.**

25          Q.     And M.J. Dean also had the right to change your



1 assigned work area throughout your employment. Is that  
2 correct?

3 A. Yes.

4 Q. You didn't have a problem with that, did you?

5 A. None.

6 Q. Were you ever given a raise during the time that  
7 you worked at M.J. Dean?

8 A. I believe so, yes.

9 Q. Do you remember when that was?

10 A. I want to say June or July.

11 Q. You started working in July 2019?

12 A. Yes.

13 Q. So you got a raise immediately?

14 A. Well, we get a yearly raise. And I'm not sure,  
15 in fact, if it came in June or July. But we have a  
16 five-year contract, so we get the raise.

17 Q. And that's my error.

18 So that raise was assigned through your union.

19 Correct?

20 A. Yes.

21 Q. Okay. So that wasn't a raise given arbitrarily,  
22 I guess, by M.J. Dean. That was through the union?

23 A. Yes.

24 MR. ROSENTHAL: Okay. I think it's a natural  
25 break point for lunch, so why don't we take an hour.



1           **A.    Yes.**

2           Q.    And when you began working at M.J. Dean, you  
3    reported directly to Kevin Gutierrez. Is that right?

4           **A.    Yes.**

5           Q.    You had never worked directly with Kevin before  
6    that time. Had you?

7           **A.    No.**

8           Q.    And your communications or contact with Kevin  
9    Gutierrez prior to your first day of work at M.J. Dean  
10   was limited to one telephone conversation and one  
11   telephone message. Right?

12          **A.    No -- yes, that's correct.**

13          Q.    Let me just make sure I -- we got it correctly.

14          **A.    Okay.**

15          Q.    So your communication or contact with Kevin  
16   Gutierrez before you actually began working at M.J. Dean  
17   was limited to one telephone conversation with him and  
18   one telephone message which you left for him. Right?

19          **A.    No, two.**

20          Q.    Two telephone messages?

21          **A.    Or two -- two phone calls.**

22          Q.    Okay. One of those phone calls, he actually  
23   picked up the phone, and you spoke for about five  
24   minutes. Right?

25          **A.    Yes.**



1 him, would always say, Parnell, you want to work  
2 overtime? I said, Yeah, man, you know I want overtime.  
3 He'd says, Okay. Come in in the morning.

4 (Reporter interruption)

5 BY MR. ROSENTHAL:

6 Q. Let me just ask this: Do you know for a fact  
7 Ricky ever worked overtime?

8 A. Yes.

9 Q. How do you know that?

10 A. Because I talked to him, and he would tell me he  
11 worked overtime.

12 Q. Okay. Were you ever assigned overtime during  
13 the time that you worked at M.J. Dean?

14 A. Yes.

15 Q. When did that start?

16 A. Maybe my fourth week there.

17 Q. And when you were assigned overtime, it was  
18 Kevin that assigned you to work overtime. Correct?

19 A. No.

20 Q. Who assigned you to work overtime?

21 A. Dave McGrandy.

22 Q. But you worked under Kevin Gutierrez' authority,  
23 too. Correct?

24 A. Yes.

25 Q. Was Kevin aware -- do you know whether Kevin was





1 answered.

2 **A. No.**

3 BY MR. ROSENTHAL:

4 Q. Did you ever complain in writing to anybody at  
5 M.J. Dean about not getting overtime that you thought you  
6 deserved?

7 **A. No.**

8 Q. Did you ever complain in writing to anybody at  
9 M.J. Dean, at any point during your employment, regarding  
10 overtime any in any way, anything having to do with  
11 overtime?

12 **A. No.**

13 Q. Did you ever complain to your union about  
14 overtime?

15 **A. No.**

16 Q. Did you ever complain to anybody at AECOM about  
17 overtime?

18 **A. No.**

19 Q. So you said that you began working overtime  
20 after about the fourth week of work at M.J. Dean. Right?

21 **A. Yes.**

22 Q. Were you assigned overtime periodically  
23 throughout the rest of your employment at M.J. Dean?

24 **A. Yes.**

25 Q. Were -- was that overtime pretty regular?



1 MR. ROSENTHAL: Yes.

2 MR. MARKS: So give him a moment to kind of  
3 collect his thoughts.

4 BY MR. ROSENTHAL:

5 Q. Do you understand the question?

6 A. Can you repeat it, please?

7 Q. Yeah. So I'm just trying to get an  
8 understanding of your list of issues that you had with  
9 Mr. Gutierrez from the time you started work until the  
10 time you submitted your internal complaint on November  
11 14, 2019. Okay?

12 A. Okay.

13 Q. Do you understand that?

14 A. Yes.

15 Q. So that's the only time period I'm looking at  
16 right now.

17 A. Yes.

18 Q. So you said you had the issue with the overtime.

19 A. Correct.

20 Q. What else?

21 A. Him calling me a nigger.

22 Q. Okay. When was that?

23 A. November 4, 2019. Excuse me. 14th, I believe  
24 it is.

25 Q. Okay. We'll get to that in a moment.



1 Did you have any other complaints or issues  
2 concerning Kevin Gutierrez before that time?

3 A. No.

4 Q. Okay. So let's move to November 14th.

5 A. Okay.

6 Q. Are you sure that Mr. Gutierrez called you the  
7 N-word on the 14th, or was it the day before?

8 A. Possibly could have been the day before.

9 MR. ROSENTHAL: Let's mark this next document as  
10 Defendant's Exhibit H.

11 (Exhibit H identified.)

12 BY MR. ROSENTHAL:

13 Q. Do you recognize what's been marked as  
14 Defendant's Exhibit H?

15 A. Yes.

16 Q. Is that a copy of the internal complaint that  
17 you submitted to M.J. Dean?

18 A. Yes.

19 Q. Take a look at the top left-hand corner, and the  
20 date says 11-14-2019. Do you see that?

21 A. Yes.

22 Q. And just for the record, Exhibit H is -- has  
23 Bates numbers DEF0024 and 0025.

24 And let's look at again at the top of -- the top  
25 left-hand side of the page, underneath the date says,



1 November 14, 2019, between you and Kevin Gutierrez?

2 **A. No.**

3 Q. So have you told me everything about the  
4 incident?

5 **A. Yes.**

6 Q. And so after the incident with Kevin Gutierrez  
7 on November 14, 2019, around 6:30 in the morning, you  
8 went over to complain at M.J. Dean's trailer. Right?

9 **A. Correct.**

10 Q. And eventually you, at some point, submitted a  
11 written complaint. Right?

12 **A. Yes.**

13 Q. Did -- who did you end up meeting with on behalf  
14 of M.J. Dean to complain to?

15 **A. John Thomason.**

16 Q. Was he in the trailer when you got there?

17 **A. Yes.**

18 Q. Did either George or Jim Lampley remain in the  
19 trailer with you while you complained?

20 **A. Yes.**

21 Q. Throughout the entire complaint?

22 **A. Yes.**

23 Q. Did you personally type up what's been marked as  
24 Exhibit H, the Employee Incident Investigation Report?

25 **A. Yes.**



1 H, did Mr. Thomason tell you that you were to report to  
2 Dave Muti and not have to report to Kevin Gutierrez  
3 anymore?

4 A. No.

5 Q. So when did that happen?

6 A. As I told the story and George was there, and  
7 since AECOM Hunt is the general superintendant, the  
8 contractor, they are over M.J. Dean. So it was George  
9 that told John Thomason that Parnell and Kevin can never  
10 work together, and Kevin is to have no dealings with  
11 Mr. Colvin. And you guys are going to put him in a  
12 different area. And that's when John Thomason's, like,  
13 Okay. No problem. That's what I'm going to do.

14 Q. So he moved you over to work directly under Dave  
15 Muti?

16 A. Correct.

17 Q. Muti is spelled M-U-T-I. Correct?

18 A. It's possible.

19 Q. To the best of your knowledge?

20 A. Yes.

21 Q. Okay. When Mr. Thomason told you that you would  
22 now be reporting to Dave Muti, had you typed out the  
23 incident report at that point?

24 A. No.

25 Q. Did you have any problems with reporting to Dave



1 Muti instead of Kevin Gutierrez?

2 A. Did I have a problem?

3 Q. Yeah.

4 A. No.

5 Q. Did you tell anybody that you didn't want to  
6 report to Dave Muti?

7 A. No.

8 Q. Had you ever worked with Dave Muti before that  
9 time?

10 A. No.

11 Q. Did you know who he was?

12 A. No.

13 Q. Did you ever have any complaints or concerns  
14 about Dave Muti after you submitted the Employee Incident  
15 Investigation Report?

16 A. None.

17 Q. After -- did you return to work after submitting  
18 the incident report and actually, in fact, report to Dave  
19 Muti?

20 A. Yes.

21 Q. And you reported to Dave Muti through the  
22 remainder of your employment at M.J. Dean. Right?

23 A. Yes.

24 Q. Did Dave Muti ever threaten your employment in  
25 any way?



1           **A.    No.**

2           Q.    Did Mr. Muti ever threaten you physically in any  
3   way?

4           **A.    No.**

5           Q.    Did Mr. Muti ever swear at you?

6           **A.    No.**

7           Q.    Did Mr. Muti ever say anything to you that you  
8   found to be racially discriminatory?

9           **A.    No.**

10          Q.    Did Mr. Thomason ever say anything to you that  
11   you found to be offensive or discriminatory?

12          **A.    No.**

13          Q.    Did Mr. Muti ever say anything to you you found  
14   to be offensive?

15          **A.    No.**

16          Q.    Did you return to work that day after submitting  
17   the incident report?

18          **A.    Yes.**

19          Q.    Did you work a complete shift?

20          **A.    Yes.**

21          Q.    Were you pleased with the resolution that you  
22   would no longer have to report directly to Kevin  
23   Gutierrez?

24          **A.    Yes.**

25          Q.    What kind of work did you do for Mr. Muti?



1           A.    I maintained the yard, which consists of when  
2   the trucks come in to unload materials and load up, I  
3   stage, organize, clean, band. That was pretty -- just my  
4   area to take care of.

5           Q.    What do you mean by stage?

6           A.    Things like when a truck would come in, just say  
7   with 20, 30 pallets -- Julian was another laborer. He  
8   was a forklift driver. So he would unload the pallets.  
9   And he would come over, say, Parnell, where do want to  
10   stage at? I would direct him, Let's put this material  
11   over here. Put the other material in a different  
12   location.

13          Q.    I've heard the expression packing and stacking.  
14   Have you?

15          A.    Yes.

16          Q.    So were you packing and stacking when you worked  
17   with Dave Muti?

18          A.    Yes.

19          Q.    When you worked with Dave Muti, did you ever  
20   have to get down on your knees and clean?

21          A.    No.

22          Q.    You did before that, though. Right?

23          A.    Yes.

24          Q.    Were there any aspects of the job that you had  
25   an issue with when you worked with Dave Muti?





1 Q. You didn't complain to the union about that  
2 second telephone conversation with Mr. Gutierrez. Did  
3 you?

4 A. No.

5 Q. Did you believe that Mr. Gutierrez' comment to  
6 you in that second telephone conversation that he didn't  
7 like people he didn't hire directly and you better walk  
8 fucking lightly around the jobsite or he will get rid of  
9 your ass in heartbeat was racially motivated?

10 A. I don't know what his intentions was.

11 Q. Okay. So you didn't know whether that comment  
12 was racially motivated or not. Correct?

13 A. Can you repeat that question again?

14 Q. You didn't know whether Kevin Gutierrez' comment  
15 to you that he didn't like people that he didn't hire  
16 directly and you had better walk fucking lightly on the  
17 jobsite or he'd get rid of your ass, you don't know if  
18 that was racially motivated, do you?

19 A. No.

20 Q. He didn't say anything to you that was racially  
21 discriminatory or offensive to you during that  
22 conversation, did he?

23 A. No.

24 Q. Other than Mr. Gutierrez calling you N-word one  
25 time on November 14, 2019, he didn't ever say anything



1 else to you that you found to be racially discriminatory  
2 or offensive. Correct?

3 **A. Correct.**

4 Q. Let's look at the second sentence. And it says:  
5 I knew from my conversation with Kevin, general foreman,  
6 I would be working under a very stressful environment,  
7 but my attitude is positive and I work.

8 Do you see that?

9 **A. Yes.**

10 Q. How did you know that the working environment  
11 would be very stressful?

12 **A. This was for the -- my complaint, just for the**  
13 **comment he made prior to that; that I don't like to hire**  
14 **-- I don't like people working for me that I don't hire.**  
15 **That's pretty common in union. Employers like to hire**  
16 **their own people.**

17 So I knew from the tone of his voice that I'm  
18 probably going to be walking into a hostile work  
19 environment.

20 Q. Not based upon your race, though. Right?

21 **A. No.**

22 Q. Okay. Just a stressful work environment?

23 **A. Correct.**

24 Q. Did you have any reason to believe that you  
25 would be harassed based upon your race based upon your



1 anyone else in management about Kevin picking on you?

2 A. No.

3 Q. That was a horribly-worded question. Let me ask  
4 it again to make it clear. Okay?

5 So other than complaining twice orally to  
6 Mr. McGrandy in August and September 2019 about  
7 Mr. Gutierrez picking on you, did you ever complain to  
8 anybody else, a manager or a supervisor, at M.J. Dean  
9 prior to November 14, 2019, about Mr. Gutierrez picking  
10 on you?

11 A. No.

12 Q. Did you ever complain to anybody at the union,  
13 at any point during your employment at M.J. Dean, about  
14 Mr. Gutierrez?

15 A. No.

16 Q. You knew that you could. Right?

17 A. Yes.

18 Q. Did there come a point where Mr. Gutierrez  
19 accused you of spending too much time in the restroom?

20 A. Yes.

21 Q. When was that?

22 A. August 2000 -- no. Excuse me. November 2019.

23 Q. So within the two-week period before you filed  
24 your investigative report --

25 A. Yes.



1 Q. Did Mr. Gutierrez ever threaten you at any time  
2 ever? That would include after the time you were  
3 employed.

4 A. No.

5 Q. Did Mr. Gutierrez ever threaten to fire you at  
6 any time after you submitted your Employee Incident  
7 Investigation Report, which is marked as Exhibit H?

8 A. No.

9 Q. And nobody else threatened to fire you or  
10 discipline you after you submitted your Employee Incident  
11 Investigation Report. Correct?

12 A. Yes.

13 Q. That's true. Correct?

14 A. Yeah, correct. That's true.

15 Q. Did you meet with Paul -- do you know who Paul  
16 Rosequist is?

17 A. Yes.

18 Q. Did you ever meet with Paul Rosequist regarding  
19 your Employee Incident Investigation Report?

20 A. Yes.

21 Q. Was that on November 14, 2019?

22 A. Yes.

23 Q. What was the purpose of you meeting with  
24 Mr. Rosequist?

25 A. Mr. Thomason said he was going to call his



1 Q. Yeah.

2 A. Actually, no, but they said they did. Through  
3 an email.

4 Q. Do you have any reason to doubt that?

5 A. Yes.

6 Q. Why?

7 A. Because like John Thomason said after this  
8 incident happened, he said, basically, I don't care about  
9 you, Parnell, or Kevin Gutierrez. My loyalty is to  
10 protect the owner of the company.

11 So that kind of let me know right then that he  
12 -- his position is that he is going to do whatever he has  
13 to do to protect the company. So if saying that they did  
14 an internal investigation to make me go away is something  
15 they need to do, then they're going to tell you that.  
16 But factually, I don't know if they actually did one.

17 Q. Did you ever ask anybody in management at M.J.  
18 Dean whether the company conducted an internal  
19 investigation?

20 A. No.

21 Q. Why not?

22 A. Because I was going to file my complaint and  
23 pursue another avenue anyway.

24 Q. What complaint was that?

25 A. Through the EEOC.



1 Q. So you had always intended to file a complaint  
2 with the EEOC right away?

3 A. Yes.

4 Q. So on November 14th, no matter what happened,  
5 you had always intended to complain to the EEOC, file a  
6 complaint?

7 A. Yes.

8 Q. Why?

9 A. Because I felt that when John Thomason said he  
10 was going to fire Kevin's ass, and it didn't happen,  
11 again, the statement he gave to me where he said, My  
12 loyalty is not with you or Kevin. Basically I could care  
13 less. My loyalty is with the company and protect the  
14 owner. So I know I would never get no justice for a  
15 hearing. Any investigation they did was going to be --  
16 it's like the police investigating themselves. You can  
17 have no faith and trust in that. So I was always going  
18 to file an EEOC complaint.

19 Q. Did anybody ever prevent you from doing your job  
20 after you submitted your complaint on November 14, 2019?

21 A. No.

22 Q. You were able to do your job without any issues.  
23 Right?

24 A. Correct.

25 Q. And you had no problem doing your job duties for



1 the remainder of your employment following November 14,  
2 2019. Right?

3 **A. Correct.**

4 Q. No one ever harassed you after that point?

5 **A. What point are you speaking of?**

6 Q. November one ever harassed after November 14,  
7 2019?

8 **A. Correct.**

9 Q. After you were assigned to work under Mr. Muti,  
10 was your job title the same?

11 **A. Yes.**

12 Q. And after you were assigned to Mr. Muti, your  
13 job duties changed, but you were a -- you were packing  
14 and stacking then. Right?

15 **A. Yes.**

16 Q. And you didn't have any complaints or problems  
17 being a packer and stacker. Right?

18 **A. No.**

19 Q. Did you feel that that was a demotion at all?

20 **A. No.**

21 Q. You had the same job benefits after moving to  
22 Mr. Muti. Right?

23 **A. Yes.**

24 Q. Did you continue to work the same general hours  
25 of work every week after moving to Mr. Muti?



1           A.    I mean, they fluctuate. Little time here,  
2 little time there. But I would at least get my 40 hours  
3 a week.

4           Q.    Generally the same hours after moving to  
5 Mr. Muti. Right?

6           A.    Yes.

7           Q.    And you had no interaction with Mr. Gutierrez  
8 after moving under Mr. Muti's supervision. Right?

9           A.    Correct.

10          Q.    Have we gone over all of your complaints and  
11 issues that you had with Mr. Gutierrez at any point  
12 during your employment?

13          A.    Yes.

14               MR. ROSENTHAL: I'd like to have this next  
15 document marked as Defendant's Exhibit I.

16               (Exhibit I identified.)

17 BY MR. ROSENTHAL:

18          Q.    Do you recognize what's been marked as  
19 Defendant's Exhibit I?

20          A.    Yes.

21          Q.    Is that a picture you took?

22          A.    Yes.

23          Q.    When did you take this picture?

24          A.    I don't know the exact date.

25          Q.    Can you give me an approximation?





1           **A.   Possibly -- I'm not sure when I took that**  
2     **picture.**

3           Q.   So you don't know if you took this picture  
4     marked as Exhibit I -- strike that.

5                     Do you know whether you took the picture marked  
6     as Exhibit I during your employment at M.J. Dean?

7           **A.   Yes.**

8           Q.   How do you know that?

9           **A.   Because I used my phone to take the picture.**

10          Q.   Is that the same phone that you have currently?

11          **A.   Yes.**

12          Q.   Do you still have it on your phone?

13          **A.   Yes.**

14          Q.   Can you see the picture on your phone directly?

15          **A.   Yes.**

16          Q.   And it will show a date?

17          **A.   Sorry. I got a lot of pictures.**

18          Q.   That's okay. Take your time.

19          **A.   There you go, sir.**

20          Q.   May I?

21          **A.   Yes.**

22          Q.   Okay. So, at the top of the screen, it says  
23     January 3, 2020 at 7:14 a.m. Is that correct? Can you  
24     confirm that?

25          **A.   Yes.**



1 Q. I'd ask that you not delete that picture. Okay?

2 A. Yes.

3 Q. Where did you take the picture?

4 A. Jobsite.

5 Q. Which jobsite?

6 A. Sphere.

7 Q. Where at the Sphere?

8 A. This is the restroom adjacent to the yard where  
9 I was working at. So this would be the restroom that I  
10 would use.

11 Q. Did you complain about this picture to anybody  
12 at M.J. Dean?

13 A. Yes.

14 Q. Who?

15 A. Safety; Tony and Julian.

16 Q. Do you know if there's a record of your  
17 complaining about this picture to anybody at M.J. Dean?

18 MR. MARKS: Object to the form.

19 A. I'm not sure.

20 BY MR. ROSENTHAL:

21 Q. Did you observe either Tony or Julian take any  
22 handwritten notes about the picture that you took on  
23 January 3, 2020?

24 A. No.

25 Q. Did you give either Tony or Julian a copy of



1 this picture that you took on January 3, 2020?

2 A. No.

3 Q. Why not?

4 A. I figured they were safety, so they walk around  
5 with cameras. So I feel that when they went in there,  
6 they was free to take their own picture.

7 Q. Did you show either Tony or Julian where you  
8 took this picture?

9 A. Yes.

10 Q. You took them to the restroom?

11 A. Yes.

12 Q. And what time was that at?

13 A. Believe -- I don't recall the time.

14 Q. Did you show Julian the picture marked as  
15 Exhibit I on January 3, 2020?

16 A. Are you saying did I show him the picture in my  
17 phone?

18 Q. Yes.

19 A. No.

20 Q. Did you show Julian what's marked as Exhibit I,  
21 did you take him to the restroom where you saw this on  
22 January 3, 2020?

23 A. Yes.

24 Q. So you showed him the same day?

25 A. Yes.



1 Q. Did you show Tony what you saw on the restroom  
2 on January 3, 2020?

3 A. No.

4 Q. When did you show Tony what you saw in the  
5 restroom?

6 A. I never showed Tony.

7 Q. So you only showed Julian?

8 A. Yes.

9 Q. Why didn't you show Tony?

10 A. Because Tony was just walking by, and I just  
11 said, You need to go look at what was -- what's in the  
12 restroom. And they did that, and they -- Carson taped it  
13 off.

14 Q. How do you know that Tony went to look at what  
15 was in the restroom?

16 A. Because he came back to me and said, That's some  
17 fucked up shit.

18 Q. Do you know if anything was done about it?

19 A. Yes.

20 Q. What was done?

21 A. They was cleaning it.

22 Q. Who is they?

23 A. Me and Ricky.

24 Q. Do you know if the person or persons who wrote  
25 what's contained on Exhibit I that was in the restroom



1 area, if the people or person who did this was an M.J.  
2 Dean employee?

3 A. I don't know.

4 Q. So it could have been an AECOM employee or  
5 somebody else from a different company. Right?

6 A. Possible.

7 Q. There were other employees on the jobsite other  
8 than M.J. Dean employees. Correct?

9 A. Yes.

10 Q. Again, you don't know who wrote these things on  
11 Exhibit I. Right?

12 A. Right. I don't know.

13 Q. Do you know if, as a result of your complaints  
14 to Tony and Julian about what was written in the restroom  
15 that's marked as Exhibit I, that it was -- this was  
16 resolved to your satisfaction?

17 A. I don't know.

18 Q. You don't know whether it was resolved to your  
19 satisfaction?

20 A. I just reported it.

21 Q. Okay. Do you feel it was resolved -- were you  
22 happy with the result that it was removed?

23 A. Yes.

24 MR. MARKS: Object to the form.

25 BY MR. ROSENTHAL:



1 Q. Do you believe that M.J. Dean should have done  
2 something else as a -- in response to you bringing what's  
3 marked as Exhibit I to the attention of Julian and Tony?

4 A. Yes.

5 Q. What should they have done?

6 A. Well, usually when things like this occur on  
7 jobsites -- we have usually weekly meetings. And usually  
8 superintendents or anybody got any issues to bring up. I  
9 think this should have been brought out that this racism  
10 slur, stuff like this won't be tolerated.

11 So I think they should have got up like they do  
12 on the Monday mornings when we have our meetings, and all  
13 employees are required to be there, I think this should  
14 have been the subject of that meeting, and it wasn't.

15 Q. Do you know whether the contents of what was the  
16 picture that you took, which is marked as Exhibit I, was  
17 ever discussed between supervisors and managers at M.J.  
18 Dean?

19 A. I don't know.

20 Q. Do you know whether or not the contents of  
21 Exhibit I was ever brought to the owner of M.J. Dean's  
22 attention?

23 A. I don't know.

24 Q. Let's take a look at --

25 MR. ROSENTHAL: Let's have this next document



1 marked as Defendant's Exhibit J.

2 (Exhibit J identified.)

3 BY MR. ROSENTHAL:

4 Q. Do you recognize what's been marked as Exhibit  
5 J?

6 A. Yes.

7 Q. Is that a picture you took?

8 A. Yes.

9 Q. Is that on your phone?

10 A. Yes.

11 Q. Could you haul out your phone again?

12 A. Yes.

13 Q. Thank you.

14 A. You're welcome.

15 There you go, sir.

16 Q. Thank you,

17 A. You're welcome.

18 Q. And the photo that I see on your phone, which is  
19 a copy of Exhibit J, indicates that picture was taken on  
20 December 24, 2019. Is that correct?

21 A. Yes.

22 Q. Where did you take this picture?

23 A. Sphere project.

24 Q. Where?

25 A. Restroom.



1 Q. Same restroom as Exhibit I?

2 A. No.

3 Q. Where was this restroom?

4 A. Possibly 50 yards away from the first restroom  
5 incident.

6 Q. Did you complain to anybody on December 24,  
7 2019, about what you saw in the restroom?

8 A. Yes.

9 Q. When did you complain to anybody?

10 A. Same day.

11 Q. Okay. December 24th?

12 A. Yes.

13 Q. Who did you complain to?

14 A. Julian, Tony -- and Tony. I don't know their  
15 last names. Safety personnel from M.J. Dean.

16 Q. Do you know if Julian or Tony ever took a report  
17 or made a report in writing to anybody about the picture  
18 which is marked as Exhibit J?

19 A. I don't know.

20 Q. Did you ever submit anything in writing  
21 complaining about the pictures that you took on January  
22 3, 2020, and December 24, 2019?

23 A. No.

24 Q. Why not?

25 A. I reported it to safety.





1 Q. Why didn't you submit anything in writing to  
2 anybody?

3 A. I didn't -- just didn't submit any.

4 Q. But you knew you could submit something in  
5 writing because you did so earlier on November 14, 2019.  
6 Right?

7 A. Yes.

8 Q. And, so why didn't you submit anything in  
9 writing about the pictures that you took at -- on  
10 December 24, 2019, and January 3, 2020?

11 A. I feel my job was to notify management, and I  
12 did. And from that point, it's up to them to take  
13 corrective action.

14 Q. Do you know if the writing, the handwriting,  
15 marked on Exhibit J was ever removed from the restroom?

16 A. I don't know.

17 Q. Did you ever go back to that restroom?

18 A. No.

19 Q. Why not?

20 A. Because the restroom that I use is one where it  
21 says, Burn all niggers. White power Trump 2020.

22 Q. So why did you go to that restroom -- different  
23 restroom on December 24, 2019?

24 A. Because sometimes when you in one area, you  
25 might have to go to another area to get materials or to



1 get something. So it's the closest restroom. So you go  
2 into the closest restroom. At that time, that was the  
3 closest restroom.

4 Q. So you never went back to that restroom for the  
5 next four months of your employment. Is that correct?

6 A. Correct.

7 Q. And so you don't know if M.J. Dean took any  
8 action in response to your oral complaints to Julian and  
9 Tony about Exhibit J. Right?

10 A. Correct.

11 Q. You don't know who wrote the contents of what's  
12 in Exhibit J. Right?

13 A. I don't know.

14 Q. You don't know if the person who wrote Black  
15 laborers equals lazy with an exclamation mark was an M.J.  
16 Dean employee or somebody else. Right?

17 A. Correct.

18 Q. Now, the photographs marked as Exhibits I and J  
19 were only disclosed during this litigation to me on May  
20 21st, 2021. Do you know why that -- why that is?

21 A. Well, prior counsel, I think you like know this,  
22 but they informed me that -- well, actually, I read your  
23 pleading online, so I was able to see that you guys had  
24 requested that you were -- it would be photos at the last  
25 minute.



1           **A.    No.**

2           **Q.    Did you ever talk to an investigator?**

3           **A.    Yes.**

4           **Q.    Did -- do you know who that investigator was?**

5           **A.    No.**

6           **Q.    Did you ever talk to the investigator about the**  
7           **photos that you took, which are marked as Exhibits I and**  
8           **J?**

9           **A.    I don't recall.**

10          **Q.    But you believe that these pictures that you**  
11          **took were important. Right?**

12          **A.    Yes.**

13          **Q.    Were you laid off from M.J. Dean on April 6,**  
14          **2020?**

15          **A.    5. April 6.**

16          **Q.    By whom?**

17          **A.    Kevin Gutierrez.**

18          **Q.    He fired you personally?**

19          **A.    Yes.**

20          **Q.    Did he say anything to you on April 6, 2020?**

21          **A.    Yes.**

22          **Q.    What did he say to you?**

23          **A.    He said he's laying me off and giving me my**  
24          **check. And he said I would be -- he said he was getting**  
25          **my check today. So he got rid of me today, but I guess**



1 the office that processes checks was unavailable to get  
2 the check out to me. So he said, I'm laying you off now.  
3 Come tomorrow and get your check.

4 Q. Did you say anything in response to  
5 Mr. Gutierrez?

6 A. Yes.

7 Q. What did you say?

8 A. I said, Kevin, I know what you're doing. You're  
9 laying me off, and you know there's work in my area. My  
10 area was never affected by COVID. And all you're going  
11 to do is bring somebody -- your other laborers from other  
12 areas to do my work.

13 Q. So were you aware on April 6th, and before that  
14 time, that there were layoffs due to COVID on the Sphere  
15 project?

16 A. Yes.

17 Q. So you knew that M.J. Dean employees were being  
18 laid off because of COVID. Right?

19 A. Yes.

20 Q. And weren't quite a few other employees laid off  
21 the same time as you on April 6, 2020?

22 A. Well, let me backtrack that.

23 I don't want to say for certain. I know people  
24 were laid off with COVID, but people was quitting anyway  
25 because hours got cut. People were -- didn't want to



1 Q. So did you ever perform any investigation on  
2 your own as to whether or not hundreds of employees had  
3 been terminated because the project was partially shut  
4 down?

5 A. No.

6 Q. Do you know whether or not M.J. Dean had any  
7 sort of obligation to rehire you after you had been  
8 terminated?

9 A. No.

10 Q. Do you know whether there's any sort of  
11 agreement between the union and M.J. Dean which would  
12 have put you sort of at the top of the list or made you  
13 get rehired at M.J. Dean?

14 A. Well, let me back up again.

15 The same day that Mr. Gutierrez fired me, I was  
16 unable to get to John Thomason, but I did run into  
17 general superintendent Brian Long. And he said, Parnell,  
18 the whole job is shutting down. I'm only going to be  
19 here, out here for a week. The 15th will be my last day,  
20 and then the whole job is shutting down.

21 That never happened.

22 But he says -- he shook my hand, he says, I  
23 promise you, once this job is manning up again, I bring  
24 you back on the board, so just stay in touch.

25 Q. Did anybody ever at -- from M.J. Dean ever give



1 MR. ROSENTHAL: You don't even give me a chance,  
2 Mr. Marks. So -- no, I'm almost done

3 A. No worries. No worries.

4 MR. ROSENTHAL: Really, and when I say that,  
5 hopefully Mr. Marks knows it's true, unlike some other  
6 lawyers.

7 Let's take a 5, 10-minute break.

8 THE VIDEOGRAPHER: We're going off the record at  
9 4:05 p.m.

10 (Recess.)

11 THE VIDEOGRAPHER: We're back on the record at  
12 4:23 p.m.

13 BY MR. ROSENTHAL:

14 Q. All right. Mr. Colvin, we're in the home  
15 stretch.

16 A. Yes, sir.

17 Q. No more documents, as you see. No more  
18 documents for you today.

19 A. Okay.

20 Q. All right. Do you know if Kevin Gutierrez ever  
21 received any training for his job from M.J. Dean?

22 A. No, I don't.

23 Q. Do you know of any facts or documents that would  
24 show that Mr. Gutierrez did not receive proper training  
25 from M.J. Dean to be a general foreman?



1           **A.    I don't know.**

2           Q.    Do you know whether or not Mr. Gutierrez was  
3 supervised by any higher-ups at M.J. Dean?

4           **A.    Yes.**

5           Q.    Who supervised Kevin Gutierrez during the time  
6 that you worked at M.J. Dean? Do you know?

7           **A.    Yes.**

8           Q.    Who?

9           **A.    Brian Long.**

10          Q.    Could you give me the name again?

11          **A.    Yes. Brian Long. General superintendent, M.J.**  
12 **Dean.**

13          Q.    Do you know if anybody else supervised  
14 Mr. Gutierrez during the time that you worked at M.J.  
15 Dean?

16          **A.    Yes.**

17          Q.    Who else?

18          **A.    John Thomason.**

19          Q.    I know you told me earlier, but remind me. What  
20 was John Thomason's job title during the time that you  
21 worked at M.J. Dean?

22          **A.    Director -- I'd be speculating, but I know it's**  
23 **-- the title director is somewhere in the -- his**  
24 **description.**

25          Q.    The best guess. I know I'm asking you to guess.



1 Exhibits I and J. Correct?

2 **A. Yes.**

3 Q. Now, when you testified just a few moments ago  
4 that -- that you found the workplace at M.J. Dean to be  
5 pervasive with white supremacist comments --

6 **A. Yes.**

7 Q. Well, strike that.

8 Does that refresh your recollection that you  
9 testified that the workplace at M.J. Dean, throughout  
10 your employment, employees were making sort of white  
11 supremacist comments?

12 **A. Correct.**

13 Q. Which employees?

14 **A. From all M.J. Dean's.**

15 Q. Can you give me any names of the M.J. Dean  
16 employees who were making comments that you found to be  
17 offensive, like white supremacist comments?

18 **A. They were carpenters.**

19 Q. What were their names?

20 **A. I don't know their names.**

21 Q. You can't give me a single name of somebody who  
22 made comments that you found to be offensive based upon  
23 race?

24 **A. No.**

25 Q. Okay. Did you ever submit any written





1 complaints to anybody at M.J. Dean about any white  
2 supremacist type comments that you found to be offensive?

3 A. No.

4 Q. And in your November 14, 2019, written complaint  
5 that you submitted, you never mentioned anybody making  
6 racist comments other than Kevin Gutierrez that you found  
7 to be offensive. Correct?

8 A. Correct.

9 Q. Did you ever complain to anybody at M.J. Dean  
10 about people having tattoos that you found to be  
11 offensive?

12 A. No.

13 Q. Did you ever complain to the union about any  
14 white supremacist tattoo that you found to be offensive?

15 A. No.

16 Q. And when I say white supremacist, like comments  
17 people made. You didn't complain to the union about  
18 white supremacist comments that you heard in the  
19 workplace. correct?

20 A. Correct.

21 Q. Did you ever complain to AECOM about any white  
22 supremacist comments that you heard in the workplace at  
23 M.J. Dean?

24 A. No.

25 MR. ROSENTHAL: I think that's it, Mr. Colvin.



1 BE IT KNOWN that the foregoing proceedings were  
2 taken before me; that the witness before testifying was  
3 duly sworn to testify to the whole truth; that the  
4 foregoing pages are a full, true and accurate record of  
5 the proceedings, all done to the best of my skill and  
6 ability; that the proceedings were taken down by me in  
7 stenographic shorthand and thereafter reduced to print  
8 under my direction.

9 I CERTIFY that I am in no way related to any of  
10 the parties hereto, nor am I in any way interested in the  
11 outcome thereof.

12

13

14

15 (X) Review and signature was requested.

16 ( ) Review and signature was waived.

17 ( ) Review and signature was not requested.

18

19

*Michael A. Bouley*

20

Michael A. Bouley, RDR  
Nevada Certified Reporter, #960

21

22

23

24

25

